

REMARKS

In view of the Advisory Action mailed on July 18, 2002, in which the Examiner rejected claims 1-8 under 35 U.S.C. § 102(b), Applicants herewith amend the Application in this Preliminary Amendment for submittal with a Request for Continued Examination. Claims 1, 2 and 3 are amended. Claims 1-8 and 10-17 remain pending in the application. Applicants note with appreciation that the Examiner has indicated that claims 10-17 are allowed.

Reconsideration of the claim rejections is respectfully requested in view of the following amendments and remarks.

A. Amendment of Claims

Claims 1 and 2 are amended to more clearly define the claimed subject matter. Additionally, in order to correct a number of informalities pointed out by the Examiner, minor amendments have been made to claim 3 and the Abstract.

B. 35 U.S.C. § 102(b): Rejection of Claims 1-8

The Examiner rejects claims 1-8 as anticipated under 35 U.S.C. § 102(b) by U.S. Patent No. 4,497,135 to Vetter ("Vetter"). In order for a claim to be anticipated, a single prior art reference must teach each and every limitation of the claim. Applicants' claim 1 recites a window operator comprising a hinge. Vetter does not teach this limitation. Vetter describes an "automatic operator and locking mechanism for a closure" for use in association with a casement window, moveable between open and closed positions (Vetter, col. 2, lines 34-39). In Vetter, the hinge is not part of the window operator. Vetter merely discloses a casement window having a window frame of conventional construction, including a sill 15 and a pair of side jams 16 and 17 (Vetter, col. 2, lines 43-47).

In Vetter, window sash 11 is pivotally mounted on guide block 30, which is moveable along guide track 31. Guide track 31 is mounted on window sill 15 (Vetter, col. 2, lines 51-53). Guide block 30 and guide track 31 "are part of a hinge mounting for the window sash which, additionally, includes hinge arm 32 pivotally connected to guide track 31 at 33 and pivoted to the underside of sash 22". (Vetter, col. 2, lines 53-57). The hinge structure is described as being of the type shown in U.S. Patent No. 2,948,027.

The foregoing makes it perfectly clear that window sash 11 is mounted to window frame 11 by a hinge. By definition, a hinge is something which permits a closure such as a window to hingedly move between open and closed positions. Therefore, as disclosed in U.S. Patent No.

2,948,027, sash 11 can be moved between open and closed positions, this movement, for example, being imparted by a person physically applying a force to move the sash.

Consequently, as disclosed by Vetter, at col. 3, lines 18-20, there is a means for mounting the window for opening and closing movement and a means for opening and closing the window. The means for opening and closing the window is the operator and locking mechanism by which "movement is imparted to the window" (Vetter, col. 2, line 61). There are thus two separate pieces of hardware. These are the hinge and the operator mechanism. Accordingly, Vetter does not teach a window operator comprising a hinge, and, therefore, does not anticipate Applicants' claim 1.

Additionally, Applicants would like to respectfully draw the Examiner's attention to the fact that the operator of Vetter incorporates a lead screw 49 and a support bar 48. A slider 41 is mounted for movement along support bar 48. Support bar 48 and lead screw 49 are supported "above the window sill 15 by a pair of brackets 50 and 51 attached to the sill by suitable means such as screws". (Vetter, col. 3, lines 6-9). It is accordingly clear from the foregoing that sill 15 of Vetter forms part of the window frame. It does not and cannot form part of the operator mechanism. The "mounting" whereby the operator mechanism is mounted to the window frame (i.e., to the window sill) is the pair of mounting brackets 50 and 51. The elongate threaded member 49 of Vetter is mounted with the mounting (i.e. mounted with brackets 50 and 51).

The Vetter arrangement is, to this extent, no different than all construction known prior to the present invention. In other words, the window sash is hingedly mounted to and supported by the window frame via a pair of window hinges. These hinges are mounted top and bottom in a casement application and on the sides in an awning application. Of course, in Vetter, the nature of the drawings is such that in Figure 3 it is only the bottom hinge which is illustrated.

The Vetter window, so mounted, can thus be opened and closed manually. However, when opening and closing is carried out by a window actuator or operator, then a separate piece of hardware, namely, the operator, is mounted to the window frame and connected to the window sash. Thus, operation of the operator/actuator carries out the opening and closing operation of this sash. As has been explained previously, the present invention is based on the discovery that advantages can be achieved by mounting the hinge to the operator and then mounting the operator to the window frame.

On page 3 of the Advisory Action, the Examiner states that the "mounting" of claim 1 is constituted by sill 15 of Vetter. However, claim 1 defines a window operator which comprises a mounting and then further states that the hinge is mountable to a window frame by the mounting. Therefore, the mounting must form part of the window operator, not part of the window frame. By this analysis, the Examiner states that sill 15, which is clearly part of the window frame, forms

part of the window operator. Applicants respectfully submit that the Examiner misinterprets what is described and shown in Vetter. As stated above, in Vetter, the "mounting" of claim 1 must be brackets 50 and 51.

Therefore, while it is respectfully submitted that the Examiner's argument seems to be based on a faulty premise, Applicants nevertheless can understand how a more precise definition of the elements of the window operator of the present invention and the structural relationships with the window sash could improve the definition of the present invention. It is submitted that this more precise definition removes the possibility of Vetter being considered to anticipate the invention. Accordingly, at least for the foregoing reasons, it is submitted that claim 1, as amended, is not anticipated by Vetter. As such, withdrawal of the rejection of claim 1 under 35 U.S.C. § 102(b) is respectfully requested.

Additionally, pursuant to the Examiner's request, Claim 2 has also been amended to provide a more precise definition of the claimed subject matter. It is respectfully submitted that claim 2 is not anticipated by Vetter. Accordingly, withdrawal of the rejection of claim 2 is respectfully requested.

Claims 3-8 depend from claim 1, and, therefore, contain all of the limitations of claim 1. As such, claims 3-8 are not anticipated by Vetter for at least the reasons stated above in respect of claim 1. As such, withdrawal of the rejection of these claims is respectfully requested.

CONCLUSION

In view of the foregoing, it is submitted that all claims now pending are in proper form, are not anticipated by the relied upon art of record, and are in condition for allowance. A Notice of Allowance is earnestly solicited at the earliest possible date. If the Examiner believes that a telephone conference would be useful in moving the application forward to allowance, the Examiner is encouraged to contact the undersigned at (310) 207-3800.

If necessary, the Commissioner is hereby authorized in this, concurrent and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2666 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17, particularly, extension of time fees.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN

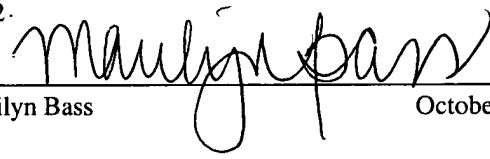
Dated: October 4, 2002

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CERTIFICATE OF MAILING:

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Box RCE, Assistant Commissioner for Patents, Washington, D.C. 20231, on October 4, 2002.


Marilyn Bass

October 4, 2002

Enclosures: Mark-Up Version Showing Amendments

· APPENDIX
MARK UP VERSION SHOWING AMENDMENTS

IN THE ABSTRACT

The Abstract on page 25 of the Application is amended as follows:

A window operator for moving a window sash in a window frame (F) between open and closed positions. The window operator has a mounting plate (14), an elongate threaded member (16) mounted with the mounting plate (14). A drive handle (11) enables a rotational movement to be applied to the elongate threaded member (16). A threaded element (66) is located on the elongate threaded member (16). A hinge (26) with which a window sash can be mounted is attached to a coupling means (23) moveable in response to movement of the threaded element (66) on the elongate threaded member (16). The hinge (26) has one arm (28) pivotally coupled to the mounting plate (14). Because arms (24 and 25) of the hinge (26) is attached to the coupling (23), movement of the coupling (23) results in movement of the hinge (26).

IN THE CLAIMS

The claims are amended as follows:

1. (Twice Amended) A window operator ¹⁰for controlling the opening and closing movement of a window ^Ssash relative to a window ^Fframe, the window operator including comprising a mounting ^{12, 13, 14}wherein the window operator is mountable to an element of the window frame, an elongate ¹⁶threaded member mounted with the mounting, a drive mechanism to apply a rotational movement to the elongate threaded member, a threaded ⁶⁶element located on the elongate threaded member, a hinge ~~with by~~ ^{stay 26}which a the window sash, ~~said hinge being~~ ¹¹is hingedly mountable to ~~a the~~ window frame, ~~said hinge being connected to by~~ the mounting, the window operator further comprising ~~can be mounted and~~ a coupling ^{driver 67}moveable in response to movement of the threaded element on the elongate threaded member, ~~the coupling a part of the hinge being connected to the coupling such that a part of the hinge wherein~~ movement of the coupling ~~results in movement~~ ^{applies a moving force to said part} of the hinge.

2. (Twice Amended) A window operator for controlling the movement of a window sash between open and closed positions relative to a window frame, the window operator including comprising a mounting and drive transfer mountable in a cavity formed between ~~a the~~ window sash and window frame when the window sash is in the closed position such that the mounting and drive transfer are not visible when the window sash is in the closed position, an

operator handle and handle mounting mountable to a surface of the window frame, the operator handle being coupled to the drive transfer and the drive transfer being drivingly coupled to an elongate threaded member mounted with the mounting, a threaded element located on the elongate threaded member ~~being connected by a coupling to a hinge engageable with the window sash and mountable to the window frame by said mounting, and a hinge comprising a sash mounting and at least one arm pivotally coupled at respective ends to the sash mounting and the mounting, a sliding element associated with the mounting and coupled to the sash mounting, the sliding element being coupled to the threaded element wherein movement of the threaded element applies a moving force to the hinge to, in use, cause the window sash mounted to the sash mounting to move between said open and closed positions.~~

3. (Three Times Amended) A window operator as claimed in claim 1, further ~~including~~comprising a lost motion mechanism between the threaded element and the coupling, and an engagement device for, in use, engaging with a locking arrangement mountable with ~~a~~ the window sash, the engagement device being movable by said lost motion mechanism to apply a locking action to the locking arrangement.